

# MEMO ENDORSED

## UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

SHARON PIZZARO, individually and on behalf  
all others similarly situated,

Plaintiff,

v.

SAZERAC COMPANY, INC.,

Defendant.

Case No. 7:23-cv-02751-KMK

CINDY KOONCE, individually and on behalf of  
all others similarly situated,

Plaintiff,

v.

SAZERAC COMPANY, INC.,

Defendant.

Case No. 7:23-cv-04323-UA

### MOTION FOR CONSOLIDATION

Plaintiffs Sharon Pizzaro, and Cindy Koonce (“Plaintiffs”), through their undersigned attorneys, hereby respectfully move this Court for entry of an Order consolidating the above-captioned related actions pursuant to Rule 42(a) of the Federal Rules of Civil Procedure and granting such other relief as the Court may deem appropriate. In support of this motion, Movants rely on the accompanying memorandum of law.

Dated: June 7, 2023

Respectfully submitted,

By: /s/ Charles D. Moore

Charles D. Moore

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*\*Pro Hac Vice Application Forthcoming*

**CERTIFICATE OF SERVICE**

I hereby certify that on June 7, 2023, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the email addresses denoted on the Electronic Mail Notice List.

/s/ Charles D. Moore  
Charles D. Moore

Under Federal Rule of Civil Procedure 42(a), the Court may “consolidate . . . actions” pending before it where the “actions . . . involve a common question of law or fact.” *Id.* The Second Circuit has indicated that trial courts have “broad discretion to determine whether consolidation is appropriate.” *Johnson v. Celotex Corp.*, 899 F.2d 1281, 1284 (2d Cir.1990), *cert. denied*, 498 U.S. 920 (1990). “The party moving for consolidation bears the burden of showing the commonality of factual and legal issues in the actions it seeks to consolidate.” *Augustin v. Jablonsky*, 99-CV-3126, 2001 WL 770839, at \*15 (E.D.N.Y. Mar. 8, 2001), *rev'd and remanded on other grounds*, 461 F.3d 219 (2d Cir.2006); *Endress v. Gentiva Health Servs.*, 278 F.R.D. 78 (E.D.N.Y.2011) (same).

Having reviewed the Complaints in these cases, (*see* Compl. (Dkt. No. 1, 23-CV-2751 Dkt.); Compl. (Dkt. No. 1, 23-CV-4323 Dkt.)), the Court finds that the Parties are bringing almost identical claims on behalf of similarly defined classes against the same Defendant. Consolidation is appropriate under these circumstances, as it “will economize both judicial resources and the resources of the parties.” *Delre v. Perry*, 288 F.R.D. 241, 246 (E.D.N.Y. 2012).

Accordingly, Plaintiffs' Actions now pending before the Court, Case Numbers 23-CV-2751 and 23-CV-4323, are consolidated for all purposes as “In Re Sazerac Consumer Litigation” under Case Number 23-CV-2751.

Plaintiffs are directed to file a Consolidated Complaint incorporating the claims of Pizzaro's and Koonce's Complaints in the newly consolidated Action.

The Court respectfully directs the Clerk of Court to consolidate 23-CV-2751 and 23-CV-4323 under Case Number 23-CV-2751 and to close Case Number 23-CV-4323.

The Court also respectfully directs the Clerk of Court to modify the caption in the consolidated Action to the following:

IN RE SAZERAC CONSUMER LITIGATION

SO ORDERED.

6/16/2023

